

201605403

Kenneth Sepulveda

An girl was brought to the 113th Precinct Stationhouse on June 22, 2016. When she slipped out of her handcuffs, Officer Sepulveda allegedly pushed her against a wall, put her in a chokehold, and threw her to the ground. Officer Sepulveda then kicked the girl.

In his CCRB interview, Officer Sepulveda made some statements about the incident prior to the girl's escape from handcuffs that were consistent with all civilian witnesses.

But when asked about what happened after the girl escaped, Officer Sepulveda stated that he simply asked her to put her hands behind her back, to which she complied and he then recuffed her. When asked if he had pushed any part of the girl, grabbed her shirt, brought her to the ground, or saw her on the ground at any point, Officer Sepulveda answered no to all. Officer Sepulveda denied any struggle and that any force was used.

Multiple civilians present stated that PO Sepulveda had taken the girl to the ground, and she was diagnosed with a head injury shortly afterwards.

The CCRB substantiated allegations that Officer Sepulveda used physical force against the individual at the precinct. It also found that Officer Sepulveda made false statements in his interview.

The NYPD compelled Sepulveda to Command Discipline-A.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Liliana Manuel	Team: Squad #7	CCRB Case #: 201605403	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 06/16/2016 8:00 PM	Location of Incident: [REDACTED]	Precinct: 113	18 Mo. SOL 12/16/2017	EO SOL 12/16/2017	
Date/Time CV Reported Wed, 06/22/2016 10:22 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/22/2016 10:22 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Nicholas Demeo	25507	§ 87(2)(b)	PBQS SU
2. POM Andre Edwards	24278	§ 87(2)(b)	113 PCT
3. Officers			Unknown
4. POM Kenneth Sepulveda	22097	§ 87(2)(b)	PBQS SU
5. POM Joseph Villalta	24586	§ 87(2)(b)	PBQS SU

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Javier Rodriguez	05096	§ 87(2)(b)	PBQS SU
2. POM Steven Obrien	07928	§ 87(2)(b)	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Nicholas Demeo	Abuse of Authority: On Lucas Street in Queens, Police Officer Nicholas Demeo searched § 87(2)(b).	A . § 87(2)(g)
B . POM Nicholas Demeo	Abuse of Authority: On Lucas Street in Queens, Police Officer Nicholas Demeo searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	B . § 87(2)(g)
C . POM Joseph Villalta	Abuse of Authority: On Lucas Street in Queens, Police Officer Joseph Villalta searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	C . § 87(2)(g)
D . POM Nicholas Demeo	Force: On Lucas Street in Queens, Police Officer Nicholas Demeo hit § 87(2)(b) against a vehicle.	D . § 87(2)(g)
E . POM Joseph Villalta	Force: On Lucas Street in Queens, Police Officer Joseph Villalta hit § 87(2)(b) against a vehicle.	E . § 87(2)(g)
F . POM Nicholas Demeo	Force: On Lucas Street in Queens, Police Officer Nicholas Demeo used physical force against § 87(2)(b).	F . § 87(2)(g)
G . POM Joseph Villalta	Force: On Lucas Street in Queens, Police Officer Joseph Villalta used physical force against § 87(2)(b).	G . § 87(2)(g)
H . POM Andre Edwards	Force: At the 113th Precinct Stationhouse, Police Officer Andre Edwards used physical force against § 87(2)(b).	H . § 87(2)(g)

Officer(s)	Allegation	Investigator Recommendation
I . POM Andre Edwards	Discourtesy: At the 113th Precinct Stationhouse, Police Officer Andre Edwards gestured discourteously toward § 87(2)(b).	I . § 87(2)(g)
J . Officers	Abuse of Authority: At the 113th Precinct Stationhouse, officers did not obtain medical treatment for § 87(2)(b).	J . § 87(2)(g)
K . Officers	Discourtesy: At the 113th Precinct Stationhouse, officers spoke discourteously to § 87(2)(b).	K . § 87(2)(g)
L . POM Kenneth Sepulveda	Force: At the 113th Precinct Stationhouse, Police Officer Kenneth Sepulveda hit § 87(2)(b) against a wall.	L . § 87(2)(g)
M . POM Kenneth Sepulveda	Force: At the 113th Precinct Stationhouse, Police Officer Kenneth Sepulveda used physical force against § 87(2)(b).	M . § 87(2)(g)
N . POM Kenneth Sepulveda	Force: At the 113th Precinct Stationhouse, Police Officer Kenneth Sepulveda used a chokehold against § 87(2)(b).	N . § 87(2)(g)
O . POM Kenneth Sepulveda	Force: At the 113th Precinct Stationhouse, Police Officer Kenneth Sepulveda used physical force against § 87(2)(b).	O . § 87(2)(g)
P . POM Kenneth Sepulveda	Other: There is evidence suggesting Police Officer Kenneth Sepulveda provided a false official statement in violation of PG 203-08, which the CCRB referred to IAB on November 14, 2016, generating log number 16-40400.	P . § 87(2)(g)

Case Summary

On June 22, 2016, § 87(2)(b) filed the following complaint with the CCRB via phone on behalf of herself and her boyfriend, § 87(2)(b) (Board Review 14). On June 16, 2016, at approximately 8:00 p.m., § 87(2)(b) and § 87(2)(b) were pulled over by PO Nicholas Demeo and PO Joseph Villalta of Patrol Borough Queens Anti-Crime on Lucas Street in Queens. § 87(2)(b) was operating § 87(2)(b)'s vehicle, and § 87(2)(b) was in the passenger seat. PO Demeo searched § 87(2)(b) (**Allegation A**). PO Demeo and PO Villalta allegedly searched § 87(2)(b)'s vehicle and recovered mace and fraudulent credit cards inside (**Allegations B and C**). § 87(2)(b) and § 87(2)(b) were placed under arrest for § 87(2)(b), and § 87(2)(b) was also arrested for reckless § 87(2)(b) (Board Review 01; 02). After handcuffing § 87(2)(b) PO Demeo and PO Villalta allegedly slammed § 87(2)(b) over the hood of their RMP (**Allegation D and E**). While attempting to place § 87(2)(b) into the RMP, PO Demeo allegedly pushed § 87(2)(b) and PO Villalta allegedly kicked § 87(2)(b)'s testicles and punched § 87(2)(b)'s stomach, testicles, and legs (**Allegations F and G**).

Once at the 113th Precinct Stationhouse, PO Andre Edwards of the 113th Precinct allegedly pushed § 87(2)(b) against a wall and threw him onto the ground (**Allegation H**). PO Edwards allegedly moved his hand back and forth from his crotch to § 87(2)(b)'s face, mimicking masturbation (**Allegation I**). § 87(2)(b)'s head, hands, and ankles were hurting, and so he requested medical attention. Officers allegedly did not obtain medical treatment for § 87(2)(b) (**Allegation J**). An unidentified officer allegedly told § 87(2)(b) to "shut the fuck up", and a second unidentified officer allegedly stated to him, "You're the one that got your ass whooped!" (**Allegation K**). While at the stationhouse, § 87(2)(b) slipped out of her handcuffs. PO Kenneth Sepulveda of Patrol Borough Queens Anti-Crime allegedly pushed § 87(2)(b) against a wall, put her in a chokehold, and threw her to the ground (**Allegations L, M, and N**). PO Sepulveda also allegedly kicked her (**Allegation O**). § 87(2)(b) and § 87(2)(b) were being held at the 113th Precinct Stationhouse and witnessed portions of the incident. The CCRB found evidence suggesting that PO Sepulveda provided a false official statement regarding this incident (**Allegation P**). A spin-off case was referred to IAB in regards, under CCRB case number 201609360, generating IAB log number 16-40400.

§ 87(2)(b) was transported to § 87(2)(b), where she was diagnosed with swelling and bruising to her forehead, abrasions and bruising to her neck, and body pain (see privileged documents). No video was available for this incident.

This case went beyond the 90-day benchmark by approximately five weeks due to extensive attempts to contact and obtain sworn statements from civilian witnesses, and due to delays in receiving NYPD documents necessary to identify additional potential witnesses.

APU Prosecutor Heather Cooke was consulted in regard to the allegations of force in this case, as well as the allegation of a false official statement.

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- As of October 4, 2016, neither § 87(2)(b) nor § 87(2)(b) had filed a Notice of Claim with the City of New York with regard to this incident (Board Review 03).
- § 87(2)(b)'s and § 87(2)(b)'s criminal cases are ongoing and they are scheduled to appear in court on § 87(2)(b) (Board Review 33, 34).
- § 87(2)(b)
- § 87(2)(b) has no prior criminal convictions.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) and § 87(2)(b) (Board Review 04).

- PO Demeo has been a member of the NYPD for five years. His one prior CCRB allegation of physical force was unfounded. PO Demeo has one other open CCRB complaint, case 201607478, in which he is the subject of three physical force allegations.
- PO Villalta has been a member of the NYPD for nine years. He has had three prior CCRB cases involving five allegations, none of which were substantiated. One of these past allegations was of physical force and was exonerated.
- PO Edwards has been a member of the NYPD for three years. He has had two prior CCRB cases involving five allegations, none of which were substantiated. Two of the past allegations were discourtesies (word), and were both closed as “complainant/victim uncooperative.”
- PO Sepulveda has been a member of the NYPD for eight years. He has had three prior CCRB cases involving seventeen allegations, two of which were substantiated. In case 201501773, a stop allegation was substantiated against him and he received command discipline in regards. In case 201505158, a vehicle search allegation was substantiated against him. The NYPD’s disposition regarding that allegation is pending.

Potential Issues

§ 87(2)(b) and § 87(2)(b) provided sworn and un-sworn statements to the CCRB (Board Review 14; 15; 16; 17; 18). They described three individuals who were in the holding cells and may have witnessed portions of the incident. § 87(2)(b), § 87(2)(b), and § 87(2)(b) were identified as potential witnesses based on their pedigree information or the Prisoner Holding Pen Roster (Board Review 05). § 87(2)(b) denied witnessing the incident and was determined to have been released prior to the incident involving § 87(2)(b) and § 87(2)(b) (Board Review 26). Database searches were conducted for § 87(2)(b), yielding numerous phone numbers and addresses that were used in an effort to contact him. However, he was ultimately unavailable to the investigation.

§ 87(2)(b) and § 87(2)(b) both provided sworn statements to the CCRB. § 87(2)(b) provided an unsworn phone statement to the CCRB on July 26, 2016, and a sworn statement on August 24, 2016 (Board Review 25; 27). § 87(2)(b) discussed her observations of § 87(2)(b) during her phone statement. However, due to a last-minute appointment § 87(2)(b) made on the date of her interview, she did not have time to discuss her observations of § 87(2)(b) during her interview.

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) alleged that he repeatedly requested to go to the hospital while being held in an isolated cell at the back of the stationhouse. However, § 87(2)(b) was unable to describe the officers who refused to provide him with medical attention, including their races or genders, and could not describe how many officers refused to provide him with medical treatment. He only noted that PO Villalta or PO Edwards were not among the officers to refuse or respond to his requests.

PO Demeo was interviewed at the CCRB and stated that EMS was called after § 87(2)(b) requested medical attention, but that when EMS responded, § 87(2)(b) refused medical attention (Board Review 29). The ambulance call report confirms this (see privileged documents). PO Demeo denied hearing § 87(2)(b) request medical attention a second time. PO Edwards, PO Sepulveda, and PO Steven Obrien, who was working as the 113th Precinct assistant desk officer, were interviewed at the CCRB and denied hearing § 87(2)(b) complain of injuries or request medical attention (Board Review 28; 30; 31; 32).

The roll call did not list any officer assigned to cell attendant (Board Review 06; 07). The Prisoner Holding Pen Roster (PHPR) states that PO Demeo was guarding both § 87(2)(b) and § 87(2)(b)s cells, even when § 87(2)(b) was placed in the rear cell (Board Review 05).

Due to the absence of any identifying information or reliable documentary evidence indicating who may have heard and/or refused § 87(2)(b)'s request for medical attention, the subject officer(s) remain unidentified. Therefore, **Allegation J** has been pleaded against "Officers."

§ 87(2)(b) stated that while he was in a holding cell yelling, an officer, who he could not describe, yelled at him to "shut the fuck up." Later that evening, an officer stated to § 87(2)(b) "You're the one that got your ass whooped." § 87(2)(b) described this officer as a white female with blonde hair. § 87(2)(b) and § 87(2)(b) did not allege that an officer used profanity toward § 87(2)(b). All interviewed officers denied making the alleged discourteous statement or hearing another officer do so, and no officer was able to identify a white blonde female officer. The roll call did not list any white female officers with blonde hair. Due to the absence of additional identifying information, **Allegation K** has been pleaded against "Officers."

Allegations Not Pleased

- **Vehicle Stop:** PO Demeo stated that he conducted the vehicle stop because he observed § 87(2)(b) drive around another vehicle, driving into oncoming traffic while doing so. § 87(2)(b) confirmed that he drove around a vehicle, and he was arrested for § 87(2)(b) (Board Review 01). Therefore, the stop allegation has not been pleaded.

Allegation A – Abuse of Authority: On Lucas Street in Queens, Police Officer Nicholas Demeo searched § 87(2)(b)

It is undisputed that PO Demeo searched § 87(2)(b) during this incident. It is further undisputed that PO Demeo recovered mace from § 87(2)(b)'s vehicle.

§ 87(2)(b) provided two unsworn phone statements and an in-person sworn statement to the CCRB (Board Review 15; 16; 19). In his sworn statement, he alleged that PO Demeo put his hands into § 87(2)(b)'s pockets and removed his wallet, prior to indicating that he was under arrest. In his phone statement, § 87(2)(b) stated that PO Demeo searched § 87(2)(b)'s vehicle, recovered contraband, and PO Demeo then searched § 87(2)(b) prior to affecting his arrest.

In addition to her original complaint, § 87(2)(b) provided a sworn statement to the CCRB (Board Review 14; 17; 18). Her statements were generally consistent. § 87(2)(b) stated that, prior to affecting § 87(2)(b)'s arrest, the officers took § 87(2)(b) to the back of the vehicle and she was therefore unable to see whether § 87(2)(b) was searched at this point.

PO Demeo and PO Villalta were interviewed at the CCRB (Board Review 29; 30). Their statements were generally consistent. Both officers stated that upon initially approaching § 87(2)(b)'s car, PO Demeo observed mace in plain view in the car. PO Demeo asked § 87(2)(b) and § 87(2)(b) to exit the car, at which point PO Demeo searched the car and recovered the mace. Both officers asserted that after PO Demeo searched the car and recovered the mace, PO Demeo searched § 87(2)(b) pursuant to his arrest, and handcuffed him.

PO Edwards, PO Sepulveda, and PO Obrien denied responding to the incident on Lucas Street at any point (Board Review 28, 31; 32).

Officers are entitled to search an individual incident to a lawful arrest. The search may take place when the arrest has or is about to occur. People v. Reid, 24 N.Y.3d 615, 619-20 (2014) (Board Review 35).

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation B – Abuse of Authority: On Lucas Street in Queens, Police Officer Nicholas Demeo searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation C – Abuse of Authority: On Lucas Street in Queens, Police Officer Joseph Villalta searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) and § 87(2)(b) stated that one or both officers approached § 87(2)(b)'s car with their flashlights out. After requesting § 87(2)(b)'s identification, the officers had § 87(2)(b) and § 87(2)(b) stand behind § 87(2)(b)'s car while PO Demeo searched the car. § 87(2)(b) alleged that PO Villalta took part in the search, whereas § 87(2)(b) said he did not. § 87(2)(b) saw PO Demeo open multiple car doors, but could not see where he looked. § 87(2)(b) stated that the officers looked under all of the seats and in the glove compartment. PO Demeo stated he had found mace in the car. § 87(2)(b) stated that there were many miscellaneous items in her car and that she did not know where in her car the mace was, but she denied that it had been in plain view. § 87(2)(b) denied knowing where in the car the mace was.

§ 87(2)(b) and § 87(2)(b) reentered the car, at which point an officer searched the trunk of the car. § 87(2)(b) could not see which officer searched the trunk. The officer found an unspecified object in the trunk, and § 87(2)(b) later saw a gift card on top of her car. In his phone statement, § 87(2)(b) stated that PO Demeo or PO Villalta searched the trunk and claimed to have found a gift card. In his sworn statement, § 87(2)(b) definitively claimed PO Villalta searched the trunk, but stated neither officer indicated anything was found in the trunk. § 87(2)(b) and § 87(2)(b) were then placed under arrest.

PO Demeo stated that upon approaching § 87(2)(b)'s car, he looked into the car with his flashlight on and observed a bottle of mace lying in plain view on top of a sweatshirt, in the middle of the back seat. Upon entering the car to remove the mace, PO Demeo observed a gift card, which he identified to be fraudulent based on his training and experience during prior arrests. PO Demeo searched the driver and passenger seat of the car to ensure that there were no additional weapons in the car, but could not recall if he searched the trunk. He did not believe that PO Villalta searched the car.

PO Villalta stated that he stood with § 87(2)(b) and § 87(2)(b) behind the car while PO Demeo searched the car. PO Villalta did not see where PO Demeo looked, and could not recall if PO Demeo searched the trunk. PO Villalta denied searching the car at any point. PO Demeo told § 87(2)(b) that he found mace in the car. PO Villalta had not observed mace in the car, and did not recall gift cards being found in the car. PO Demeo later told PO Villalta that he observed the mace when he first approached § 87(2)(b)'s car, and that was why he asked § 87(2)(b) and § 87(2)(b) to step out of the car. PO Villalta denied using his flashlight and could not recall if PO Demeo did so.

PO Demeo's memo book states that he observed a bottle of mace in plain view in the rear seat, and that upon further investigation, he recovered one fraudulent credit card from the rear of the vehicle (Board Review 12).

Under the plain view doctrine, officers may search a vehicle if it is "immediately apparent" to the officer that the item is evidence of criminality or contraband. People v. Carbone, 184 A.D.2d 648 (1992) (Board Review 08).

It is undisputed that PO Demeo searched § 87(2)(b)'s car. PO Demeo claimed that upon approaching the car, he observed mace in plain view in the back seat, as was reflected in his memo book. PO Villalta was later informed of PO Demeo's observation. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

Allegation D – Force: On Lucas Street in Queens, Police Officer Nicholas Demeo hit § 87(2)(b) against a vehicle.

Allegation E – Force: On Lucas Street in Queens, Police Officer Joseph Villalta hit § 87(2)(b) against a vehicle.

§ 87(2)(b) stated that PO Demeo handcuffed § 87(2)(b) behind § 87(2)(b)'s car and lifted § 87(2)(b)'s arms while pushing his chest against the car. § 87(2)(b) did not resist, but PO Demeo yelled, "You're resisting!" PO Villalta, who had been standing by § 87(2)(b)'s passenger door with § 87(2)(b), ran over to § 87(2)(b) arriving after § 87(2)(b) was already in handcuffs. In his sworn statement, § 87(2)(b) alleged that PO Demeo and PO Villalta moved § 87(2)(b) to the front of their RMP, and holding both arms, slammed him onto the hood of the RMP, causing his chest to make contact with the hood. § 87(2)(b) did not sustain any injuries as a result. In his phone statement, § 87(2)(b) stated that PO Demeo threw him against the back of § 87(2)(b)'s car while handcuffing him, but he did not allege that PO Demeo or PO Villalta hit him against the hood the RMP.

§ 87(2)(b) stated that after § 87(2)(b) was taken to the back of her car, PO Villalta told her to step out of the car and then handcuffed her. PO Villalta and § 87(2)(b) then went to the back of her car, at which time PO Demeo was escorting § 87(2)(b) to the RMP door. § 87(2)(b) did not allege that either officer slammed § 87(2)(b) against her car or the hood of the RMP.

PO Demeo and PO Villalta stated that § 87(2)(b) was compliant with being handcuffed, but that when PO Demeo attempted to bring him to the RMP, § 87(2)(b) yelled, swung his body, and pulled away from PO Demeo. He refused to go into the RMP. PO Villalta, who had been watching § 87(2)(b), came to assist PO Demeo in placing § 87(2)(b) in the RMP, though PO Villalta denied assisting in bringing § 87(2)(b) to the RMP. Both officers denied slamming § 87(2)(b) against § 87(2)(b)'s car or the RMP, and denied seeing another officer do so.

§ 87(2)(g)

Allegation F – Force: On Lucas Street in Queens, Police Officer Nicholas Demeo used physical force against § 87(2)(b)

Allegation G – Force: On Lucas Street in Queens, Police Officer Joseph Villalta used physical force against § 87(2)(b)

§ 87(2)(b) stated that as PO Demeo tried placing him in the RMP, § 87(2)(b) attempted to stand on the rim of the RMP door, and yelled at § 87(2)(b) and bystanders to record the incident. PO Demeo pushed § 87(2)(b)'s legs and hands to get him into the RMP, causing § 87(2)(b)'s back to make contact with the door or RMP. He sustained an abrasion to his back as a result (Board Review 20). § 87(2)(b) remained standing by the door, telling people to record and stating, "I'm not going in there." PO Villalta approached § 87(2)(b) and punched his testicles, knees, and legs multiple times. In his phone statement, § 87(2)(b) added that PO Villalta punched his stomach and kicked his testicles, trying to get him in the RMP. The officers yelled at § 87(2)(b) to go in the RMP. At some point, § 87(2)(b) fell backwards into the RMP. While § 87(2)(b) was lying with his legs hanging out of the door, an unspecified officer tried closing the door, causing the door to make contact with his knees.

§ 87(2)(b) denied resisting, attempting to evade the officers, or using any type of force against them. PO Villalta accused § 87(2)(b) of kicking him. § 87(2)(b) denied intentionally kicking an officer, but acknowledged that his foot may have inadvertently made contact with an officer while he was being shoved into the RMP by officers.

§ 87(2)(b) stated that as PO Demeo brought § 87(2)(b) to the RMP, approximately ten uniformed officers arrived. § 87(2)(b) was unable to describe these officers. § 87(2)(b)'s jacket was hanging over his handcuffs, his shorts were falling down, and one of his slippers fell off. The officers yelled at § 87(2)(b) to get into the RMP. § 87(2)(b) stated that he was going to go in the RMP, but asked the officers to fix his jacket and get his slipper. Officers attempted to get § 87(2)(b) into the RMP by pushing and pulling his clothes and body, causing § 87(2)(b)'s head to bang against the RMP, and his hips, leg, and side to make contact with the RMP. An officer(s) also kicked § 87(2)(b) though § 87(2)(b) could not see where § 87(2)(b) was kicked. § 87(2)(b) could not specify which officers pushed, pulled, or kicked § 87(2)(b). PO Villalta put § 87(2)(b) in a RMP and then joined the struggle. § 87(2)(b)'s view of the struggle was obstructed by the RMP door near § 87(2)(b). § 87(2)(b) denied that § 87(2)(b) resisted in any way or refused to go in the RMP. It seemed he was trying to go into the RMP but had difficulty doing so because he was being pushed and pulled in various directions.

Both PO Demeo and PO Villalta stated § 87(2)(b) swung and pulled his body away from PO Demeo. § 87(2)(b) refused to go into the RMP, and stood on the seat of the RMP with half of his body out of the vehicle. PO Demeo stated § 87(2)(b) yelled at bystanders to record the incident, and PO Villalta claimed § 87(2)(b) stated he was not going into the RMP. PO Villalta arrived at the RMP door, and both officers instructed § 87(2)(b) to go into the RMP multiple times.

PO Demeo stated that when § 87(2)(b) came down from standing on the RMP seat, he kicked PO Villalta's hand and arm over three times, dislocating PO Villalta's thumb. § 87(2)(b) kicked PO Demeo's arm, but PO Demeo was not injured. The officers requested backup, and attempted to maintain control of § 87(2)(b) until backup arrived. When additional officers arrived, an officer moved § 87(2)(b)'s legs into the RMP. Once § 87(2)(b)'s legs were in the RMP, PO Demeo tried closing the RMP door, but § 87(2)(b) kicked the door open. An officer put his legs back into the RMP, at which point PO Demeo successfully closed the door. PO Demeo did not believe he pushed § 87(2)(b) and only recounted trying to keep ahold of his arms. He did not recall trying to close the door on § 87(2)(b)'s legs or seeing another officer do so. PO Demeo denied kicking or punching § 87(2)(b) or seeing another officer do so.

PO Villalta stated that while § 87(2)(b) was standing on the RMP seat, he kicked PO Villalta's chest and stomach. PO Villalta told him calm down and go into the RMP, and he put his hands up to block § 87(2)(b)'s kicks. § 87(2)(b) then kicked PO Villalta's finger, causing ligament damage and a sprained left thumb. PO Villalta then went to handcuff § 87(2)(b). While with § 87(2)(b), PO Villalta saw § 87(2)(b) push PO Demeo with his chest and attempt to walk away. When additional officers arrived, PO Villalta brought § 87(2)(b) to an RMP across the street. He did not see if or how the additional officers interacted with § 87(2)(b). PO Villalta denied attempting to close the door on § 87(2)(b)'s legs, punching or kicking § 87(2)(b).

§ 87(2)(b) or using any physical force against § 87(2)(b) and denied seeing any other officers do so. PO Villalta went Line-of-Duty as a result of this incident until September 6, 2016.

Neither PO Demeo nor PO Villalta observed any injuries on § 87(2)(b). PO Demeo recounted that § 87(2)(b) later requested medical attention but did not complain of any specific injury. When EMS arrived, § 87(2)(b) refused medical attention.

The Line-of-Duty report, AIDED report, and witness statement prepared in regards to PO Villalta's injury state that while trying to have § 87(2)(b) sit in the RMP, § 87(2)(b) pulled away from the officers and kicked PO Villalta several times about his chest and left hand (Board Review 09).

An officer may use force to reasonably gain control of a subject, take a lawfully arrested person into custody, prevent one's escape from custody, or ensure the safety of a member of the service or a third person. NYPD Patrol Guide, Procedure 221-01 (Board Review 10).

§ 87(2)(g)

Allegation H – Force: At the 113th Precinct Stationhouse, Police Officer Andre Edwards used physical force against § 87(2)(b).

Allegation I – Discourtesy: At the 113th Precinct Stationhouse, Police Officer Andre Edwards gestured discourteously toward § 87(2)(b).

§ 87(2)(b) stated that upon arriving at the 113th Precinct Stationhouse, officers repeatedly instructed him to sit down. § 87(2)(b) told the officers that he could not sit down because his handcuffs were too tight, and sitting would cause him further discomfort. PO Edwards then grabbed § 87(2)(b)'s shoulders and threw him onto the floor, causing § 87(2)(b) to land on his stomach. In his phone statement, § 87(2)(b) added that PO Edwards pushed him against a wall. PO Edwards moved § 87(2)(b) into a seated position against a wall. He and other officers stood around § 87(2)(b) and PO Edwards positioned his crotch within inches of § 87(2)(b)'s face. PO Edwards put his hand on § 87(2)(b)'s shoulder, and then moved his hand back and forth from his crotch to § 87(2)(b)'s face, mimicking masturbation. He asked § 87(2)(b) "Are you doing this with your girlfriend?" § 87(2)(b) stated something to the effect of, "Mind your fucking business," and told PO Edwards to back away from his face. § 87(2)(b) was near § 87(2)(b) at the time. Officers told § 87(2)(b) to calm down. § 87(2)(b) was later moved to an isolated cell in the rear of the stationhouse.

§ 87(2)(b) was unsure if she arrived at the stationhouse before or after § 87(2)(b). She recounted eventually seeing § 87(2)(b) seated on the floor, but she did not see how he ended up on the floor. PO Edwards and a few other officers stood around § 87(2)(b) with their crotches within inches of § 87(2)(b)'s face. § 87(2)(b) asked them to back up and stated, "Your balls are in my face." § 87(2)(b) did not allege that any officer made a gesture mimicking masturbation.

In her phone statement, § 87(2)(b) initially stated that she saw officers use force against § 87(2)(b) because he was "acting up," but then stated that she did not see officers use force against him or bring

him to the ground. § 87(2)(b) recounted § 87(2)(b) was screaming and telling officers, “No, I’m not moving.” § 87(2)(b) did not allege that any officer made any discourteous gestures.

§ 87(2)(b) provided an unsworn phone statement and a sworn phone statement to the CCRB (Board Review 22; 23; 24). He stated that when he arrived at the stationhouse, he heard a male, identified as § 87(2)(b) yelling from a secluded cell. He did not see § 87(2)(b) at any point.

PO Edwards stated that while in the muster room, he heard a loud commotion that sounded as though a chair had been kicked. He left the muster room and saw Borough Crime officers attempting to have § 87(2)(b) sit down. § 87(2)(b) refused to do so. He was combative, yelling and cursing at the officers, and moving his shoulders. The Borough Crime officers took him to the ground. PO Edwards could not recall how the officers did so, but denied that he or any other officer pushed § 87(2)(b) or threw him to the ground. § 87(2)(b) kicked his legs, and so PO Edwards assisted in holding his legs down, and he put his hand on § 87(2)(b)’s left shoulder. § 87(2)(b) stated, “Get off of me,” and, “Fuck you.” Officers told § 87(2)(b) to calm down, and PO Edwards believed § 87(2)(b) eventually complied. § 87(2)(b) may have been sitting against the wall towards the end of the altercation, but PO Edwards denied standing over § 87(2)(b) at that time. He denied moving his hand back and forth between his groin and § 87(2)(b)’s face, and denied seeing another officer do so.

PO Demeo stated once at the stationhouse, § 87(2)(b) yelled and kicked chairs and walls. PO Demeo told him to calm down, but § 87(2)(b) did not calm down until hours later. PO Demeo denied pushing § 87(2)(b) or bringing him to the ground, and denied observing another officer do so. He denied there being any physical altercation between § 87(2)(b) and officers at the stationhouse, and denied that § 87(2)(b) was seated on the ground at any point. PO Demeo denied making the alleged hand gesture or seeing another officer do so. § 87(2)(b) arrived at the stationhouse a few minutes after § 87(2)(b).

PO Villalta denied seeing § 87(2)(b) or witnessing any altercation between § 87(2)(b) and officers at the stationhouse. PO Sepulveda and PO Obrien denied seeing an officer push § 87(2)(b) throw him to the ground, or gesture towards him in a discourteous manner.

It is undisputed that § 87(2)(b) refused officers’ instructions to sit on a chair. PO Edwards and PO Demeo stated that § 87(2)(b) was further incontinent by yelling and kicking the chair. While PO Edwards acknowledged that § 87(2)(b) was brought to the ground, he and PO Demeo denied that § 87(2)(b) was pushed or thrown to the ground. § 87(2)(b) did not allege that officers used force against § 87(2)(b) at the stationhouse, and § 87(2)(b) denied seeing officers do so. Though § 87(2)(b) saw PO Edwards standing closely to § 87(2)(b) neither she nor § 87(2)(b) alleged that PO Edwards gestured discourteously toward him, and the officers denied that PO Edwards did so. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation J – Abuse of Authority: At the 113th Precinct Stationhouse, officers did not obtain medical treatment for § 87(2)(b)

Allegation K – Discourtesy: At the 113th Precinct Stationhouse, officers spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that while in a holding cell, he requested to go to the hospital because his head and hands were hurting. Multiple officers told § 87(2)(b) that going to the hospital would only prolong his time in custody. § 87(2)(b) could not recall his response to the officers, but recounted repeatedly yelling. § 87(2)(b) was then moved to an isolated cell by himself in the back of the stationhouse, where he continued to request medical attention. An officer yelled, “Shut the fuck up!” and officers told him that he had signed a form stating he did not want medical attention, but § 87(2)(b) denied having done so. He was never taken to the hospital. Later that evening, an officer stated to § 87(2)(b) “Oh, you’re the one that got your ass whooped!”

§ 87(2)(b) stated that an ambulance arrived for § 87(2)(b) at which time § 87(2)(b) told the EMTs or officers that he no longer wanted to go to the hospital. § 87(2)(b) was then moved to an isolated cell, where § 87(2)(b) could no longer see or hear § 87(2)(b). She did not hear him request medical attention again.

§ 87(2)(b) stated that after officers told § 87(2)(b) that going to the hospital would prolong his time in custody, § 87(2)(b) stated he no longer wanted to go to the hospital. § 87(2)(b) later began screaming that he wanted to go to the hospital, but he was not taken to the hospital. § 87(2)(b) stated that he heard § 87(2)(b) yelling from an isolated cell for approximately two hours, but § 87(2)(b) did not hear § 87(2)(b) request medical attention at any point.

The ambulance call report shows that an ambulance responded to the 113th Precinct Stationhouse, but that § 87(2)(b) refused medical attention (see privileged documents).

§ 87(2)(g)

Allegation L – Force: At the 113th Precinct Stationhouse, Police Officer Kenneth Sepulveda hit § 87(2)(b) against a wall.

Allegation M – Force: At the 113th Precinct Stationhouse, Police Officer Kenneth Sepulveda used physical force against § 87(2)(b)

Allegation N – Force: At the 113th Precinct Stationhouse, Police Officer Kenneth Sepulveda used a chokehold against § 87(2)(b)

Allegation O – Force: At the 113th Precinct Stationhouse, Police Officer Kenneth Sepulveda used physical force against § 87(2)(b)

APU Prosecutor Heather Cooke was consulted in regard to the allegations of force in this case.

§ 87(2)(b) was handcuffed to a railing by the holding cells. She explained that she was very cold and repeatedly asked officers to lower the air conditioning but officers did not do so. Eventually, § 87(2)(b) slipped her hand out of the handcuff and walked to the doorway dividing the room she was in from the main desk. She did not pass the threshold of the doorway, but asked officers behind the desk to lower the air conditioning. PO Sepulveda appeared next to her and pushed her chest with both hands, pushing her further into the room with the cells. The push did not cause her to fall or stumble. PO Sepulveda then grabbed the front of § 87(2)(b)'s shirt with both hands and forcefully pinned her against a wall. § 87(2)(b) did not resist or fight back in any way.

While still holding onto her shirt, PO Sepulveda threw § 87(2)(b) across the room (approximately twelve feet), causing her to land face down on the ground, and causing her head to hit the gate of the male holding cell and the floor. She sustained a knot on the top of her forehead and lower back pain as a result. She also sustained a laceration in the middle of her neck, which was bleeding. She did not know what caused the laceration. Approximately four or five additional officers arrived and attempted to handcuff § 87(2)(b). § 87(2)(b) moved her body “like a worm,” and it took all of the officers’ assistance to handcuff her. § 87(2)(b) was then placed back by the rail, and she requested medical attention. § 87(2)(b) went to § 87(2)(b) with PO Demeo.

§ 87(2)(b) was seated next to § 87(2)(b) by the rail, and § 87(2)(b) was in the male holding cell next to the rail. Neither § 87(2)(b) nor § 87(2)(b) knew § 87(2)(b) prior to this incident, and neither knew her name at the time of their CCRB interviews. § 87(2)(b) and § 87(2)(b) stated that after walking to the doorway and asking for the AC to be lowered, § 87(2)(b) began walking back to the rail/cell area. PO Sepulveda yelled, “Go now!” or, “Get back in the room!” § 87(2)(b) stated that § 87(2)(b) turned around and told PO Sepulveda she was going. § 87(2)(b) and § 87(2)(b) alleged that PO Sepulveda then pushed § 87(2)(b)'s chest with both hands.

§ 87(2)(b) stated that PO Sepulveda pushed § 87(2)(b)'s chest multiple times, and that § 87(2)(b) told him not to do so. PO Sepulveda then forcefully pushed her chest, causing her body to “slam”

against a wall. § 87(2)(b) told PO Sepulveda not to put his hands on her, and she pushed PO Sepulveda away from her. § 87(2)(b) was not sure what part of PO Sepulveda's body § 87(2)(b) pushed, but stated that she may have pushed his hands when he again tried to make contact with her.

PO Sepulveda then picked § 87(2)(b) up and threw her to the floor, causing her to hit the ground very hard. The back of her head slammed against the floor and the side of her body hit the cell gate. PO Sepulveda tried holding § 87(2)(b) down, but § 87(2)(b) kicked her legs and tried to push him away. Additional officers responded and tried to hold § 87(2)(b) down, and an officer(s) kicked § 87(2)(b)'s feet to hold her feet down. § 87(2)(b) could not describe this officer. PO Sepulveda put his arm against § 87(2)(b)'s chest and grabbed her arm to cuff her. § 87(2)(b) did not know if PO Sepulveda ever made contact with § 87(2)(b)'s neck or throat. A large bump quickly appeared on § 87(2)(b)'s forehead while she was on the ground. In her phone statement, § 87(2)(b) added that she saw blood on § 87(2)(b) possibly on her hand.

§ 87(2)(b) stated that after pushing § 87(2)(b)'s chest, PO Sepulveda put his arm around her neck with his forearm against her throat, and attempted to swing her onto the ground. § 87(2)(b) remained standing and slipped her head out of his arm. PO Sepulveda stated that she was resisting, at which point three other officers assisted in bringing her to the ground. § 87(2)(b) shrugged her shoulder to shake the officers off, but did not attempt to push or strike the officers. It did not appear that any officer attempted to handcuff § 87(2)(b) prior to bringing her to the ground. PO Sepulveda held § 87(2)(b) down on the ground by placing his left hand around the back and sides of § 87(2)(b)'s neck, and officers told her to stop resisting. § 87(2)(b) appeared to be in pain and told the officers to get off of her. It seemed she tried to avoid being handcuffed, but § 87(2)(b) was unable to specify how. § 87(2)(b) did not punch, kick, or attempt to strike any officer. § 87(2)(b) did not observe any injuries on § 87(2)(b). In his phone statement, § 87(2)(b) stated that PO Sepulveda choked § 87(2)(b) but he was unable to describe this action further. He also stated that § 87(2)(b) kicked her legs on the ground, and that PO Sepulveda kicked her feet.

While in the isolated cell, § 87(2)(b) could not see § 87(2)(b) but heard her screaming. Once in Central Bookings, one of the civilians he had previously seen in a holding cell told him that officers assaulted his girlfriend and slammed her against a gate.

PO Sepulveda stated that while standing with PO Demeo, he saw § 87(2)(b) in the holding cell area, standing by the door. § 87(2)(b) complained that it was cold in the cells. She was not in handcuffs, but she did not appear to be attempting to leave the stationhouse. PO Sepulveda entered the cell area and PO Demeo stood behind him. PO Sepulveda asked her to put her hands behind her back, and she complied. PO Sepulveda handcuffed her and walked her back to the bench. He then exited the cell area and did not interact with her again. PO Sepulveda denied using any force against § 87(2)(b) and denied that any struggle occurred. He denied grabbing, pushing, or kicking her, denied bringing her to the ground, and denied making contact with her neck or head. He denied seeing any other officer do so. He did not observe any injuries on § 87(2)(b) or hear her complain of any injuries.

PO Demeo first stated that while processing the arrests, he learned that § 87(2)(b) had gotten out of her handcuffs. He then stated that he went into the holding cell area moments after PO Sepulveda, and saw § 87(2)(b) out of her handcuffs. PO Demeo handcuffed one of her arms and PO Sepulveda cuffed the other. PO Demeo did not believe § 87(2)(b) provided any physical resistance, and the officers had no trouble handcuffing her. PO Demeo denied being involved in or learning of a physical altercation with § 87(2)(b). He denied seeing her on the ground, and denied seeing PO Sepulveda make any physical contact with § 87(2)(b) aside from placing the handcuffs on her. He denied pushing § 87(2)(b) kicking her, bringing her to the ground, or making contact with her arm or neck, and denied seeing another officer do so. § 87(2)(b) stated she was pregnant, and complained of minor back pain and a headache, which she attributed to sitting in the cell for so long. She requested EMS, and PO Demeo transported her to the hospital. § 87(2)(b) did not claim that an officer used force against her, and PO Demeo did not observe any injuries on her.

PO Obrien, PO Edwards, and PO Villalta denied having any knowledge of the incident.

§ 87(2)(b)'s medical records from § 87(2)(b) state that she was diagnosed with swelling to her forehead, abrasions and bruising to her neck, and back pain (see privileged documents). § 87(2)(b) reported to medical personnel that she was assaulted by an officer, thrown to the ground, and hit in the head.

Officers must only use the reasonable force necessary to gain control of a subject, take a lawfully arrested person into custody, prevent one's escape from custody, or ensure the safety of a member of the service or a third person. NYPD Patrol Guide, Procedure 221-01 (Board Review 10).

It is undisputed that § 87(2)(b) slipped out of her handcuffs and asked for the air conditioning to be lowered. § 87(2)(b) alleged that PO Sepulveda then pushed her, shoved her against a wall, and threw her to the ground, causing her head to hit the cell gate. § 87(2)(b)'s statements to medical personnel were consistent with her allegations of force. Despite acknowledging that § 87(2)(b) slipped out of her handcuffs, PO Sepulveda and PO Demeo denied that any physical altercation occurred as a result § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) and § 87(2)(b) stated that after being pushed, § 87(2)(b) pushed or shrugged PO Sepulveda's hands off of her, though § 87(2)(b) denied resisting until she was on the ground. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged that PO Sepulveda put his forearm against § 87(2)(b)'s throat and put her in a chokehold. § 87(2)(b) did not allege that PO Sepulveda did so in her statements to the CCRB or medical personnel. § 87(2)(b) who was in close proximity to the struggle, denied seeing PO Sepulveda made contact with § 87(2)(b)'s neck. PO Sepulveda denied making contact with § 87(2)(b)'s neck, and all other interviewed officers denied seeing him do so. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) and § 87(2)(b) stated § 87(2)(b) kicked her legs while on the ground, and that an officer kicked her feet in response. § 87(2)(b) alleged that PO Sepulveda did so, but § 87(2)(b) could not specify which officer did so. She stated that the officer kicked § 87(2)(b)'s feet to hold them down. § 87(2)(b) did not allege that she was kicked in any of her statements, and all interviewed officers denied the alleged force. § 87(2)(g)

Allegation P – Other Misconduct: There is evidence suggesting Police Officer Kenneth Sepulveda provided a false official statement in violation of PG 203-08, which the CCRB referred to IAB on November 14, 2016, generating log number 16-40400.

On September 13, 2016, PO Sepulveda provided a statement to the CCRB regarding this incident. PO Sepulveda stated that he saw § 87(2)(b) out of her handcuffs at the stationhouse, and that he simply told her to put her hands behind her back, she complied, and he then handcuffed her with ease. He stated that he was the main officer to interact with her at this time, and was with her from the time he first observed her out of her handcuffs until she was re-handcuffed and placed back on the bench. The investigator asked PO Sepulveda if he pushed any part of § 87(2)(b)'s body, grabbed her by her shirt, brought her to the ground, or saw her on the ground at any point. PO Sepulveda replied, "No," to each of the aforementioned questions. He denied that any struggle occurred, and denied that any force was used against § 87(2)(b). PO Sepulveda provided specific and unprompted details of the incident that were consistent with § 87(2)(b) and two civilian witnesses' testimonies, such as that he observed § 87(2)(b) by a doorway, and that she complained it was cold in the holding cells.

§ 87(2)(b) and § 87(2)(b) who were being held in the stationhouse during the incident, were interviewed at the CCRB. They did not know § 87(2)(b) prior to this incident and did not know her name at the time of their CCRB interviews. § 87(2)(g) Both § 87(2)(b) and § 87(2)(b) alleged that after § 87(2)(b) walked to the doorway and requested that the air conditioning be lowered, PO Sepulveda pushed § 87(2)(b)'s chest and threw her to the ground, causing her to land near the gate of the holding cells, as was alleged by § 87(2)(b). § 87(2)(b) added that a large bump quickly developed on § 87(2)(b)'s head while she was on the ground. § 87(2)(b)'s medical records from § 87(2)(b) state that she was diagnosed with swelling to her forehead, and that she reported to medical personnel that she was assaulted by an officer, thrown to the ground, and hit in the head.

[illegible]

Squad: __

Investigator:	_____	_____	_____
	Signature	Print	Date

Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date